

UNITED STATES BANKRUPTCY COURT
DISTRICT OF OREGON

In re

Van's Aircraft Inc.
Debtor(s)

Ivanov, Andrew
Plaintiff(s)

v.

Van's Aircraft Inc.
Defendant(s)

Case No. 23-62260-DWH11

Adv. Proc. No. _____

COMPLAINT

The Plaintiff, IVANOV, ANDREW, by and through this Complaint, states as follows:

INTRODUCTION

This action arises from the failure of Van's Aircraft Inc. (the Defendant) to deliver aircraft kits despite full payment by the Plaintiff, constituting breach of contract. Furthermore, Defendant's explicit assurances regarding the readiness of the aircraft kits for pickup, despite knowing such readiness was not achievable, constitutes fraudulent misrepresentation. These assurances, relied upon by Plaintiff in making final payments, were materially false and made with the intent that Plaintiff rely upon them, resulting in financial harm when the kits were not delivered as represented.

JURISTITION AND VENUE

This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. Venue is proper in this Court under 28 U.S.C. § 1409.

STATEMENT OF FACTS

1. On February 19, 2022, Plaintiff entered into a contract with Defendant for the purchase of three aircraft kits: RV-10 Wings kit, RV-10 Fuselage kit, and RV-10 Finishing kit, for the total price of \$66,795.
2. On July 10, 2023, Defendant confirmed that the RV-10 Finishing kit and the RV-10 Fuselage kit were ready for pickup. Additionally, Defendant requested an additional payment of \$4955 for the purchase of Beginger wheel upgrade, bringing the total price to \$71,750.
3. On July 14, 2023, Plaintiff completed payment based on Defendant's assurance of readiness of the RV-10 Finishing kit and the RV-10 Fuselage kit, and near-readiness of the RV-10 Wings kit. Plaintiff inquired about the physical dimensions of the kits and the possibility of receiving all three kits at once.
4. On July 17, 2023 Defendant provided to Plaintiff a readiness date for the RV-10 Wings kit in August and promised to contact Plaintiff to coordinate pick-up of all three kits.

5. Despite subsequent multiple attempts by Plaintiff to contact Defendant, and Plaintiff's readiness to collect the kits, the Defendant has failed to deliver the kits as agreed.

CLAIMS FOR RELIEF

First Claim for Relief – Breach of Contract

Plaintiff asserts that Defendant breached the contract by failing to deliver the aircraft kits, causing Plaintiff financial harm.

Second Claim for Relief – Non-Dischargeability Due to Fraudulent Misrepresentation

Plaintiff asserts that the debt owed by Defendant for the purchase price of the aircraft kits and the wheels upgrade, which were not delivered despite Defendant's assurances, is non-dischargeable under 11 U.S.C. § 523(a)(2), as it arises from false pretenses, a false representation, or actual fraud committed by the Defendant.

DEMAND FOR JUDGMENT

Plaintiff seeks a declaration that the debt owed by Defendant to Plaintiff is non-dischargeable under 11 U.S.C. § 523(a)(2). Plaintiff further seeks recovery of the purchase price paid, costs, fees, and any other relief the Court deems just and proper.

DATED: March 4, 2024

Ivanov, Andrew
2450 172nd Ave NE
Redmond, WA 98052
206-371-3832
andywaus@gmail.com

| | | |
|---|---|--|
| ADVERSARY PROCEEDING COVER SHEET (Instructions on Reverse) | | ADVERSARY PROCEEDING NUMBER (Court Use Only) |
| PLAINTIFFS | DEFENDANTS | |
| ATTORNEYS (Firm Name, Address, and Telephone No.) | ATTORNEYS (If Known) | |
| PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee | PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee | |
| CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED) | | |
| NATURE OF SUIT (Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.) | | |
| <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <p>FRBP 7001(1) – Recovery of Money/Property</p> <input type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input type="checkbox"/> 12-Recovery of money/property - §547 preference <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input type="checkbox"/> 14-Recovery of money/property - other <p>FRBP 7001(2) – Validity, Priority or Extent of Lien</p> <input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property <p>FRBP 7001(3) – Approval of Sale of Property</p> <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h) <p>FRBP 7001(4) – Objection/Revocation of Discharge</p> <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e) <p>FRBP 7001(5) – Revocation of Confirmation</p> <input type="checkbox"/> 51-Revocation of confirmation <p>FRBP 7001(6) – Dischargeability</p> <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny <p style="text-align: center;">(continued next column)</p> </div> <div style="width: 48%;"> <p>FRBP 7001(6) – Dischargeability (continued)</p> <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury <input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support) <input type="checkbox"/> 65-Dischargeability - other <p>FRBP 7001(7) – Injunctive Relief</p> <input type="checkbox"/> 71-Injunctive relief – imposition of stay <input type="checkbox"/> 72-Injunctive relief – other <p>FRBP 7001(8) Subordination of Claim or Interest</p> <input type="checkbox"/> 81-Subordination of claim or interest <p>FRBP 7001(9) Declaratory Judgment</p> <input type="checkbox"/> 91-Declaratory judgment <p>FRBP 7001(10) Determination of Removed Action</p> <input type="checkbox"/> 01-Determination of removed claim or cause <p>Other</p> <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa <i>et seq.</i> <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case) </div> </div> | | |
| <input type="checkbox"/> Check if this case involves a substantive issue of state law | <input type="checkbox"/> Check if this is asserted to be a class action under FRCP 23 | |
| <input type="checkbox"/> Check if a jury trial is demanded in complaint | Demand \$ | |
| Other Relief Sought | | |

| BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES | | |
|---|-----------------|---------------------------------------|
| NAME OF DEBTOR | | BANKRUPTCY CASE NO. |
| DISTRICT IN WHICH CASE IS PENDING | DIVISION OFFICE | NAME OF JUDGE |
| RELATED ADVERSARY PROCEEDING (IF ANY) | | |
| PLAINTIFF | DEFENDANT | ADVERSARY PROCEEDING NO. |
| DISTRICT IN WHICH ADVERSARY IS PENDING | DIVISION OFFICE | NAME OF JUDGE |
| SIGNATURE OF ATTORNEY (OR PLAINTIFF) | | |
| DATE | | PRINT NAME OF ATTORNEY (OR PLAINTIFF) |

INSTRUCTIONS

The filing of a bankruptcy case creates an “estate” under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor’s discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 1040, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court’s Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on form 1040 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff’s attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Plaintiffs and Defendants. Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

Attorneys. Give the names and addresses of the attorneys, if known.

Party. Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

Demand. Enter the dollar amount being demanded in the complaint.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.